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February 10, 2011

**Via Courier**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW,  
Room TW-A325  
Washington, DC 20554

FILED/ACCEPTED

FEB 10 2011

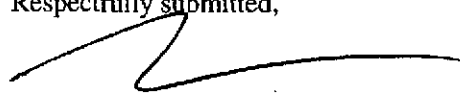
Federal Communications Commission  
Office of the Secretary

**Re: DSLnet Communications LLC and MegaPath Inc. Section 63.71 Application**

Dear Ms. Dortch:

On behalf of DSLnet Communications LLC and MegaPath Inc., enclosed please find an original and five (5) copies of the above-referenced Application. Please date-stamp the extra copy of this filing and return it to us. Should you have any questions regarding this filing, please do not hesitate to contact us.

Respectfully submitted,

  
Jean L. Kiddoo  
Jeffrey R. Strenkowski ✓

Attachments

Boston  
Hartford  
Hong Kong  
London  
Los Angeles  
New York  
Orange County  
San Francisco  
Santa Monica  
Silicon Valley  
Tokyo  
Washington

Bingham McCutchen LLP  
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**COPY TO BE DATE STAMPED  
AND RETURNED**

2011 FEB 11 P 3:33  
Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of

Section 63.71 Application of  
DSLnet Communications LLC and  
MegaPath Inc.

**FILED/ACCEPTED**

**FEB 10 2011**

Federal Communications Commission  
Office of the Secretary

### **SECTION 63.71 APPLICATION**

DSLnet Communications LLC ("DSLnet") and MegaPath Inc. ("MegaPath") (DSLnet and MegaPath together, "Applicants"), hereby seeks authorization pursuant to Section 214(a) of the Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 214, and Section 63.71 of the Commission's Rules, 47 C.F.R. § 63.71, to discontinue its provision of domestic telecommunications services -- namely, interstate high speed data and Internet services -- to a *limited* portion of its customers in California, Connecticut, Kentucky, Massachusetts, Missouri, New Jersey, New York, Ohio, Rhode Island, Tennessee, Texas, and Wisconsin.

DSLnet and MegaPath are nationwide broadband provider. DSLnet offers interstate special access DSL service, which is used for high-speed internet access under the "MegaPath" brand. DSLnet is also authorized by the Federal Communications Commission to provide interstate services.

In an effort to maintain its broadband network in the most efficient manner possible, DSLnet and MegaPath have identified 25 central offices in its network that will be shut down. These central offices have been stagnant in growth for some time and only support 130 direct end user customers of the Applicants, 39 enterprise, and 16 wholesale carriers. A total of 213 circuits provisioned through the wholesale carriers will be affected by the proposed

discontinuance. The proposed discontinuance will not result in harm to the affected customers because the customers will have the opportunity to select another telecommunications carrier for their telecommunications needs, and the CLECs and ILEC(s) in their area will continue to offer them high speed data and Internet service.

The Applicants provide the following information pursuant to Section 63.71 of the Commission's Rules:

1. Name and Address of the Carrier: DSLnet Communications LLC and MegaPath Inc. are located at 50 Barnes Park North, Suite 104, Wallingford, Connecticut 06492 and 555 Anton Blvd. , Suite 200, Costa Mesa, California 92626.
2. Date of Planned Service Discontinuance, Reduction or Impairment: The Applicants plan to discontinue interstate special access high speed DSL service to the affected customers in the states listed above on March 31, 2011, or as soon thereafter as any necessary regulatory approvals are obtained. Applicants understand that this application will be automatically granted on the 31<sup>st</sup> day after public notice of filing unless the Commission notifies the Applicants to the contrary.
3. Points of Geographic Areas of Service Affected: Applicants propose to discontinue interstate special access high speed DSL service to the affected customers in the states of California, Connecticut, Kentucky, Massachusetts, Missouri, Ohio, New Jersey, New York, Rhode Island, Texas, and Wisconsin.
4. Brief Description of Type of Service Affected: The services received by the affected customers include the provision of interstate special access high speed DSL service, which is used for high speed Internet access.

5. Brief Description of the Dates and Methods of Notice to All Affected Customers:

In December 2010 and January 2010, Applicants provided notification to all affected direct and enterprise customers via written email correspondence and an outbound calling campaign. The email communication and the calling campaign informed the customers that, due to changes in Applicants' network coverage, it would no longer be able to provide broadband Internet service to the customer's particular location as of March 31, 2011, but advised each customer to contact the Applicants to determine if there were potential alternatives. The email communication and the calling representatives provided a toll-free number for customers to call either to disconnect their service or to investigate other service alternatives using other DSLnet and MegaPath affiliate service. Likewise, in December 2010 and January 2011, wholesale customers were contacted via e-mail notification and outbound calling campaign informing them that certain central offices would be shut down on March 31, 2011. Additionally, each wholesale customer received a list of its circuits impacted by the planned closures and was encouraged to work with their end users to find a new provider for their Internet services.

Applicants also provided additional written customer notice to all affected direct and wholesale customers on February 9, 2011 and February 10, 2011 in accordance with the requirements of Section 63.71(a) of the Commission's Rules, informing it customers again of the March 31, 2011 disconnect date. Copies of the form of the wholesale and direct customer notices are appended hereto as *Exhibit A*.

6. Whether the Carrier is Considered Dominant or Non-dominant with Respect to the Service to be Discontinued, Reduced or Impaired: Applicants are considered non-dominant with respect to the affected services.

In accordance with Section 63.71 of the Commission's Rules, a copy of this Application is being mailed to the Governors and public services commissions of the states of California, Connecticut, Kentucky, Massachusetts, Missouri, Ohio, New Jersey, New York, Rhode Island, Tennessee, Texas, and Wisconsin, and to the Special Assistant for Telecommunications for the Secretary of Defense, concurrently with the filing of this application.

Additional questions regarding this application may be addressed to the undersigned or to Jean L. Kiddoo and Jeffrey R. Strenkowski, Bingham McCutchen LLP, 2020 K Street, N.W., Washington, DC 20006; Tel. (202) 373-6002; jean.kiddoo@bingham.com; jeffrey.strenkowski@bingham.com.

Respectfully submitted,

DSLnet Communications, LLC  
MegaPath Inc.

By: Anthony Hansel *AKS*  
Anthony Hansel  
Assistant General Counsel  
DSLnet Communications, LLC and  
MegaPath Inc.  
1750 K Street, N.W., Suite 200  
Washington, D.C. 20006  
(202) 220-0410

Dated: February 10, 2011

## **CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Section 63.71 Application was served this 8th day of February 2011, by mailing true and correct copies thereof, postage prepaid, to the following persons at the addresses listed below.

Secretary of Defense  
ATTN: Special Assistant for Telecommunications  
Pentagon  
Washington, DC 20301

Secretary  
California Public Utility Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

The Honorable Jerry Brown  
Governor of California  
State Capitol Building  
Sacramento, CA 95814

Secretary  
State of Connecticut  
Department of Public Utility Control  
Ten Franklin Square  
New Britain, CT 06051

The Honorable Dan Malloy  
Governor of Connecticut  
Executive Office of the Governor  
State Capitol  
210 Capitol Avenue  
Hartford, CT 06106

Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, KY 40602-8294

Honorable Steve Beshear  
Governor of Kentucky  
700 Capitol Avenue, Suite 100  
Frankfort, Kentucky 40601

Secretary  
Massachusetts Department of  
Telecommunications and Cable  
1000 Washington Street, Suite 820  
Boston, Massachusetts 02118-6500

Honorable Deval Patrick  
Governor of Massachusetts  
Massachusetts State House  
Office of the Governor  
Room 280  
Boston, MA 02133

Secretary  
Missouri Public Service Commission  
Public Information Office  
Governor Office Building  
200 Madison Street  
P.O. Box 360  
Jefferson City, MO 65102-0360

The Honorable Jeremiah Nixon  
Governor of Missouri  
Office of the Governor  
Room 216, State Capitol Building  
Jefferson City, MO 65101

The Honorable Chris Christie  
Office of the Governor  
PO Box 001  
Trenton, NJ 08625

Kristi Izzo, Secretary  
New Jersey Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

Secretary  
New York State  
Department of Public Service  
3 Empire State Plaza  
Albany, NY 12223-1350

The Honorable Andrew Cuomo  
Governor of New York  
State Capitol  
Albany, NY 12224

Renee J. Jenkins, Secretary  
Public Utilities Commission of Ohio  
Attention: Docketing Division  
180 East Broad Street  
Columbus, OH 43215-379

The Honorable John Kasich  
Governor of Ohio  
Riffe Center, 30th Floor  
77 South High Street  
Columbus, Oh 43215-6108

Secretary  
Rhode Island Public Utilities Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

The Honorable Lincoln Chafee  
Governor of Rhode Island  
222 State House  
Providence, RI 02903-1196

Chairman Mary W. Freeman  
c/o Sharla Dillon, Dockets and Record  
Manager  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

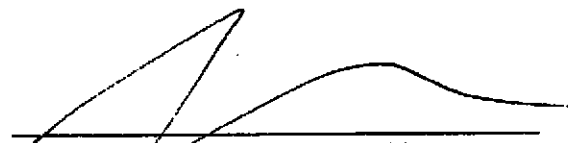
Honorable Bill Haslam  
Governor of Tennessee  
Governor's Office  
1st Floor, Tennessee State Capitol  
Nashville, TN 37243-0001

Secretary  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
PO Box 13326  
Austin, TX 78711-3326

The Honorable Rick Perry  
Governor of Texas  
Office of the Governor  
P.O. Box 12428  
Austin, TX 78711-2428

Sandra Paske, Secretary  
Public Service Commission of Wisconsin  
610 Whitney Way  
Madison, WI 53705-2750

The Honorable Scott Walker  
Governor of Wisconsin  
115 East Capitol  
Madison WI 53702



Jeffrey R. Strenkowski

## **EXHIBIT A**





50 Barnes Park  
Suite 104  
Wallingford, CT 06492  
[www.megapath.com](http://www.megapath.com)

Dear Valued Customer,

As we recently notified you, MegaPath will be upgrading our network infrastructure. The address shown below for your business location will be part of the upgrade activities and requires a service transition. Your current MegaPath service will not be available after **March 31, 2011** and will be automatically terminated on such date.

Company name:  
Address:  
Account Number:

However, we may still be able to provide you with another service. Please call us at 888-831-4997 to discuss the options available to you and place your order to avoid an interruption in service. Change in service will require a new contract and term.

If we are able to provide you with an alternative service, once you place an order, we will deliver a new local loop to your location. You should experience only a brief interruption of service while our technician moves your local area network (LAN) connection. Please note that we will not be able to provide you with same IP addresses, so we recommend that you be prepared to make the change when the technician is onsite installing the new equipment. The technician will ensure that your service is operational before leaving your site.

In the event, however, that we cannot provide you another service, then your service will be disconnected as of **March 31, 2011**. The FCC will normally authorize this proposed discontinuance of service unless it is shown that customer would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the Commission releases public notice of discontinuance. Address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the §63.71 Application of DSLnet Communications, LLC. Comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.

Thank you for your business and loyalty throughout the years. As always, your MegaPath representative is available to assist you with any account questions. Please feel free to contact us at 888-831-4997.

Sincerely,

DSLnet and MegaPath



555 Anton Blvd.  
Suite 200  
Costa Mesa, CA 92626  
phone: 714.327-2000  
fax: 714.327-2001  
www.megapath.com

February \_\_, 2011

## Change in MegaPath Footprint

*Reminder: No new orders—Decommission  
scheduled for March 31, 2011*

**Dear Valued MegaPath Partner,**

In January 2011, we notified you that MegaPath had identified 25 COs that would be decommissioned as of March 31, 2011. These COs have been stagnant in growth for some time and support very few end users. We also notified you that MegaPath was not accepting "new" orders in these COs through the MegaPath ordering systems related to this decommissioning effort.

**AFFECTED COS:**

CLLI Code	Location
ALBYNYGD	Albany, NY
ALBYNYSS	Albany, NY
ALBYNYWA	Albany, NY
BURLVTMA	Burlington, VT
CHLSMACH	Boston, MA
ESTNMDES	Easton, MD
FXBOMACO	Boston, MA
HDSNMAFR	Boston, MA
HMPNVAQN	Norfolk, VA
HRSNNYHN	New York, NY
HYSMAOC	Boston, MA
HYPKMAHA	Boston, MA
MLFRCT00	New York, NY
MYNRMAWA	Boston, MA
NWPTRIBU	Boston, MA
NWRKNJIR	New York, NY
RCMDVARA	Richmond, VA
RDFDCT00	New York, NY
SCHNNYSC	Albany, NY
SCTNPASC	Scranton, PA

SRFRCT00	New York, NY
SYRCNYSU	Syracuse, NY
TMBLCT00	New York, NY
UTICNYUT	Utica, NY
WASHPAWA	Washington, PA

In that same notice, we provided you with a list of your installed circuits in one or more of these COs. We continue to evaluate comparable solutions to keep your circuits on the MegaPath, and we ask that, if you have not done so already, please contact your MegaPath representative for details as we have noted that some circuits still have not been disconnected. We ask again that you work with any customers in these COs to find a new provider if we cannot provide you with alternative solutions. We plan to disconnect these circuits on March 31, 2011. Early termination fees do not apply to these circuits.

The FCC will normally authorize this proposed discontinuance of service unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after the FCC releases public notice of the proposed discontinuance. Address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the §63.71 Application of DSLnet Communications, LLC. Comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.

We apologize for any inconvenience this may cause. MegaPath is committed to providing you with a robust, reliable nationwide portfolio of broadband services. This network activity helps us keep our prices to you competitive and our nationwide coverage effect and relevant. Our goal is to make sure we do not negatively impact your business and you have alternatives, where possible.

Please contact your MegaPath account representative if you have any questions.

**Regards,**

**DSLnet Communications LLC and MegaPath, Inc.**

*The information contained in this communication, including any attachments, is confidential and intended only for use by the recipients expressly named, and may be legally privileged. If you are not the intended recipient, any dissemination, distribution or copying of this communication by you is strictly prohibited. If you have received this communication in error, please delete it from your systems.*